

**OFFICIAL FILE**  
**ILLINOIS COMMERCE COMMISSION**

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

**ORIGINAL**

COMMERCE COMMISSION

2004 MAR 26 A 9:54

CHIEF CLERK'S OFFICE

Illinois Commerce Commission

On Its Own Motion

-v.-

KMS Morris Power, Inc.

Investigation of compliance with Order  
granting QSWEF status.

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03-0607

**Motion for Leave to Respond to Staff's Post-Hearing Brief**

Respondent, LePetomane VI, Inc., not individually but solely as Receiver for KMS Morris Power, Inc. ("KMS Morris"), by and through its counsel, Louis D. Bernstein and Theodore F. Kommers, respectfully moves for leave to file a response to Staff's Post-Hearing Brief.

1. On February 19, 2004, this Court entered a scheduling order providing that (1) all motions that can be raised prior to the hearing are to be filed by February 24, 2004, (2) an evidentiary hearing is scheduled for March 4, 2004, (3) initial post-hearing briefs are due on March 18, 2004, and (4) a proposed order will issue on March 25, 2004.

2. On February 24, 2004, KMS Morris filed a Notice of Withdrawal of Defense to Proceeding (the "Notice"). For the reasons stated in the Notice, KMS Morris did not file a post-hearing brief on March 18<sup>th</sup>.

3. KMS Morris has received the Post-Hearing Brief of Staff and notes that Staff's brief seeks relief beyond that requested in its initial Staff Report filed on July 30, 2003 and beyond the scope of the Court's initiating order dated October 8, 2003.

4. To address these matters, particularly the fact that this Court lacks jurisdiction to hear these matters and that the Post-Hearing Brief should be stricken, KMS Morris requests the

opportunity to submit the attached response brief in advance of the Court's issuance of the Proposed Order.

WHEREFORE, KMS Morris respectfully requests leave to file a response to Staff's Post-Hearing Brief and that the Court grant such other and further relief in KMS Morris' favor as deemed appropriate.

Louis D. Bernstein  
Theodore F. Kommers  
Gould & Ratner  
222 N. LaSalle Street, Suite 800  
Chicago, IL 60601  
(312) 236-3003

**Respectfully Submitted,**

**LE PETOMANE VI, INC., not  
individually, but solely as the duly  
appointed Receiver**

By:   
One of its Attorneys

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission	:	
On Its Own Motion	:	
-vs-	:	
KMS Morris Power, Inc.	:	
	:	03-0607
Investigation of compliance with Order	:	
granting QSWEF status and with	:	
Sec. 8-403.1 of the Public Utilities Act	:	

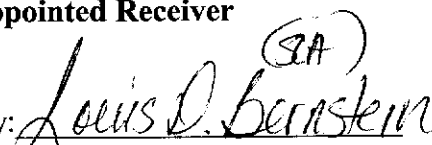
**NOTICE OF FILING**

To: See Attached  
Certificate of Service List

Please take notice that on March 25, 2004, we forwarded for filing with the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62701, the attached **Motion for Leave to Respond to Staff's Post-Hearing Brief and Response to Staff's Post-Hearing Brief**, in the above captioned matter.

Respectfully Submitted,

LE PETOMANE VI, INC., not  
individually, but solely as the duly  
appointed Receiver

By:  (SA)  
One of its Attorneys

Louis D. Bernstein  
Theodore F. Kommers  
Gould & Ratner  
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Chicago, Illinois 60601  
(312) 236-3003

## CERTIFICATE OF SERVICE

I, Sharyl L. Amodeo, a non-attorney, state, pursuant to §1-109 of the Code of Civil Procedure, that I caused copies of Respondent's **Motion for Leave to Respond to Staff's Post-Hearing Brief** upon the ICC located at 527 East Capitol Avenue, Springfield, Illinois 62701, via overnight mail, and to the remaining persons on the service list via electronic mail and regular mail, this 25<sup>th</sup> day of March, 2004, before the hour of 5:00 p.m.

  
Sharyl L. Amodeo

## SERVICE LIST

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